



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	MAIL STOP AMENDMENT
Stephanie Ayala et al.)	
Application No.: 09/545,288)	Group Art Unit: 3729
Filing Date: April 7, 2000)	Examiner: MINH N. TRINH
Title: METHOD FOR MAKING SMART)	Confirmation No.: 1602
CARDS CAPABLE OF OPERATING)	
WITH AND WITHOUT CONTACT)	

AMENDMENT/REPLY TRANSMITTAL LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Enclosed is a reply for the above-identified patent application.

- ☐ A Petition for Extension of Time is enclosed.
- ☐ _____ Terminal Disclaimer(s) and the ☐ \$ 65 ☐ \$ 130 fee per Disclaimer due under 37 C.F.R. § 1.20(d) are enclosed.
- ☐ Also enclosed is/are: _____
- ☐ Small entity status is hereby claimed.
- ☐ Applicant(s) requests continued examination under 37 C.F.R. § 1.114 and enclose the ☐ \$ 395 ☐ \$ 790 fee due under 37 C.F.R. § 1.17(e).
- ☐ Applicant(s) requests that any previously unentered after final amendments not be entered. Continued examination is requested based on the enclosed documents identified above.
- ☐ Applicant(s) previously submitted _____ on _____ for which continued examination is requested.
- ☐ Applicant(s) requests suspension of action by the Office until at least _____, which does not exceed three months from the filing of this RCE, in accordance with 37 C.F.R. § 1.103(c). The required fee under 37 C.F.R. § 1.17(i) is enclosed.
- ☐ A Request for Entry and Consideration of Submission under 37 C.F.R. § 1.129(a) (1809/2809) is also enclosed.

- ☒ No additional claim fee is required.
- ☐ An additional claim fee is required, and is calculated as shown below:

AMENDED CLAIMS					
	No. of Claims	Highest No. of Claims Previously Paid For	Extra Claims	Rate	Additional Fee
Total Claims	26	38	0	x \$ 50 (1202)	\$ 0
Independent Claims	2	5	0	x \$ 200 (1201)	0
<input type="checkbox"/> If Amendment adds multiple dependent claims, add \$ 360 (1203)					\$ 0
Total Claim Amendment Fee					\$ 0
<input type="checkbox"/> Small Entity Status claimed - subtract 50% of Total Claim Amendment Fee					0
TOTAL ADDITIONAL CLAIM FEE DUE FOR THIS AMENDMENT					\$ 0

- ☐ Charge _____ to Deposit Account No. 02-4800 for the fee due.
- ☐ A check in the amount of _____ is enclosed for the fee due.
- ☐ Charge _____ to credit card for the fee due. Form PTO-2038 is attached.
- ☒ The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date September 25, 2007

By: _____

James A. LaBarre
Registration No. 28632

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Alexandria, VA 22313-1404
703 836 6620



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CARDS CAPABLE OF OPERATING)	
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REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated June 25, 2007, Applicants respectfully request reconsideration and withdrawal of the rejection of the claims. In the event that the rejection is not withdrawn, Applicants respectfully submit that they are entitled to a new, non-final, complete Office Action that advances the prosecution of the application, for the reasons presented hereinafter.

In the final Office Action dated October 13, 2006, claims 45 and 46, among others, were withdrawn from consideration. In response thereto, Applicants filed a Petition to Withdraw the Restriction Requirement, with respect to these two claims. This Petition was granted, in a Decision dated February 12, 2007. Consistent therewith, in an Advisory Action dated February 2, 2007, the Examiner stated that the restriction between claims 1-39 and claims 45-46 had been withdrawn, and that claims 45-46 were allowed.

The summary sheet for the most recent Office Action dated June 25, 2007 identifies claims 6, 12, 27, 29 and 40-46 as being withdrawn from consideration. It is

respectfully submitted that this indication does not take into account the record of the application, as it currently stands. In the Amendment filed January 16, 2007, claims 40-44, among others, were cancelled. The cancellation of those claims was acknowledged in the Advisory Action dated February 2, 2007. Furthermore, the indication that claims 45 and 46 are withdrawn from consideration ignores the decision dated February 12, 2007, withdrawing the restriction requirement as to those claims, as well as the Advisory Action of February 2, 2007, indicating the allowance of those claims.

In response thereto, a first telephone call was made to the Examiner on July 2, 2007. During that call, the Examiner stated that the withdrawal of these claims was mistaken, and that they appeared to be allowed. This statement is confirmed in the Interview Summary record dated July 10, 2007.

The summary sheet for the most recent Office Action indicates that claims 1, 2 and 14-23 are rejected. However, the body of the Office Action only contains a rejection of claims 15-23. Upon further review, it was noted that page 2 of the Office Action was missing, and telephone calls were placed to the Examiner and his Supervisor. In a return call, the Examiner acknowledged the omission, and stated that new Office Action would be mailed. As of the date of filing this response, however, no such Office Action has been received, nor posted on the PAIR site for the application.

In response to the final Office Action dated October 13, 2006, a Request for Pre-Appeal Brief Review was filed on February 12, 2007. The Notice of Panel Decision, dated April 11, 2007, states that the contested rejections are withdrawn, and a new Office Action will be mailed. It is respectfully submitted that the Office

Action dated June 25, 2007, does not comply with this Decision. The rejection of claims 15-23, appearing on page 3 of the Office Action, is an exact duplicate of the rejection appearing in the final Office Action dated October 13, 2006, which references the rejection set forth in the Office Action dated April 27, 2006. Thus, rather than being withdrawn, the previous ground of rejection was simply repeated.

Furthermore, the Office Action does not address the substance of Applicants' arguments presented in either the response filed January 16, 2007, or the Request for Pre-Appeal Brief Review filed February 12, 2007. It merely contains a statement "Applicants' arguments filed 2/12/07 have been acknowledged", without addressing the substance of them. It is respectfully submitted that this course of action is contrary not only to the Panel Decision dated April 11, 2007, but also the standard set forth in MPEP §707.07(f). This section of the Manual states that, when an applicant traverses any rejection, if the rejection is repeated, "the examiner should...take note of the applicant's argument *and answer the substance of it.*" (Emphasis added). This has not been done in the present case.

In view of the foregoing, it is respectfully submitted that Applicants have not received a complete, nor proper, action following the Panel Decision dated April 11, 2007. Rather than acknowledging the substance of Applicants' arguments and withdrawing the previous grounds of rejection as indicated in the Decision, the most recent Office Action is simply a copy of a portion of the previous Office Action, and does not properly reflect the current status of the claims in the application. Furthermore, as pointed out in the telephone call to the Examiner, the Office Action is incomplete, and does not explain any basis for the rejection of claims 1, 2 and 14. As such, the Office Action does not advance the prosecution of the application.


For the reasons presented in their previous responses, Applicants submit that the prior art does not disclose, nor otherwise suggest, the subject matter recited in the pending claims, and therefore the application is in condition for allowance. If the Examiner does not consider the application to be in condition for allowance, it is respectfully submitted that Applicants are entitled to a new, non-final Office Action that (a) indicates that the previous grounds of rejection are withdrawn, pursuant to the Panel Decision dated April 11, 2007, (b) confirms the pending status of claims 45 and 46, (c) explains the basis for rejecting any claim that is not considered to be allowable, and (d) addresses the substance of Applicants' arguments traversing the rejection of any claim that is not allowed.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: September 25, 2007

By:


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